

**DECISION  
GRAFTON PLANNING BOARD**

**SPECIAL PERMIT (SP 2018-11)  
Replacement of Freestanding Sign**

**Relief from Size**

**Johnny's Auto & Light Truck Repair, LLC, 277 Upton Street, Grafton, MA**

**John Inzitari (Applicant/Owner)**

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GRAFTON, MA

2018 AUG 15 AM 10:04 JK

Decision of the Grafton Planning Board (hereinafter the Board) on the petition of John Inzitari, 277 Upton Street, Grafton, MA 01519 (hereinafter the Applicant), for a Special Permit under Section 4.4.4 (Special Cases / Relief) of the Grafton Zoning By-law (ZBL) for relief from the requirements for signs in the Agricultural (A) zoning district. Said petition seeks approval for replacement and expansion of a pre-existing, non-conforming free-standing sign at 277 Upton Street, Grafton (hereinafter the Site), and shown on Grafton Assessor's Map 102, Lot 36A and owned by Johnny's Auto & Light Truck Repair, LLC (hereinafter the Owner) by deed recorded in the Worcester District Registry of Deeds in Book 57814, Page 71.

**I. BACKGROUND**

The application for the above referenced Special Permit (hereinafter Application) was submitted on June 29, 2018. Notice of the public hearing and the subject matter thereof was published in the Grafton News on July 5 and 12, 2018 and posted with the Town Clerk's Office and abutters were notified by First Class Mail. The public hearing on the Application was held on July 23, 2018. At the public hearing, all those wishing to speak to the petition were heard. Following public input the hearing was closed on July 23, 2018.

The following Board members were present throughout the public hearing: Chairman Robert Hassinger, Vice Chairman Linda Hassinger, Clerk Sharon Carroll-Tidman, and Members David Robbins, Michael Scully. At the hearing, John Inzitari (Applicant) presented the application to the Board.

**II. EXHIBITS**

The following items were submitted to the Board for its consideration of this application:

1. Unbound application materials submitted by the Applicant, received on June 29, 2018, including the following:
  - Application for Special Permit; received by the Town Clerk on July 2, 2018; 1 page.
  - Certificate of Good Standing; signed by Treasurer /Collector on June 27, 2018; 1 page
  - Certified Abutters List; signed by Assessors Office Manager; dated June 28, 2018; 1 page.
  - Order Form & Sign Plan Signs by Cam, Inc.; Johnny's Automotive Service Signage; submitted June 29, 2018; 2 pages.
  - Survey Plan of Land – 277 Upton Street prepared for John Inzitari; dated April 19, 2018; 1 page.

2. Email correspondence; Re: 277 Upton Street – Johnny’s Auto – Sign Relief; Zoning Board of Appeals; dated July 5, 2018; 1 page.
3. Updated Sign Plan; Highlighted Note from Applicant; dated July 5, 2018; 1 page.
4. Email correspondence: Re: 277 Upton Street – Johnny’s Auto – Sign Relief; Police Chief; dated July 6, 2018; 1 page.
5. Email correspondence: Re: 277 Upton Street – SP 2018-11; Board of Health; dated July 6, 2018; 1 page.
6. Memorandum from the Town Planner; Comments for Johnny’s Auto Special Permit 2018-11; dated July 19, 2018; 4 pages.

### **III. FINDINGS**

At their meeting of August 13, 2018, after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by Mr. Robbins, seconded by Mrs. Carroll-Tidman) voted 5-0 in **FAVOR** to make the following Findings:

1. That determinations regarding the following findings are based upon the plans identified in this Decision, as well as the information and materials submitted and presented in association with the Application.
2. That determinations regarding the following findings are also predicated upon satisfactory completion of the work shown on the Plans in accordance with this Decision, as well as all applicable Federal, State and Local regulations, except where modified by this Decision.
3. That the Site, as identified by the Applicant and shown in Exhibit #1 of this Decision, is located within the Agricultural (A) zoning district. The site is not located within the Water Supply Protection Overlay District.
4. That per ZBL Section 3.2.3.1, the present use of the Site as an “Automobile and/or truck repair garage” is not an allowable use in the Agricultural zoning district. The Site is a pre-existing non-conforming use that has been in continuous operation since before 1986 (Exhibit #6), at which time the rezoning of the parcel from Commercial to Agricultural took place.
5. That per ZBL Section 4.4.3.3, only one (1) freestanding sign not to exceed two (2) square feet is allowed in the Agricultural zoning district. The Applicant is proposing to install a fifty-four (54) square feet custom aluminum sign cabinet.
6. That per ZBL Section 4.4.3.4.4.1 one free standing sign per lot is permitted, subject to provisions set forth in Section 4.4.3.4.4.2 and 4.4.3.4.4.3.
7. That ZBL Section 4.4.3.4.4.2 allows for a freestanding sign to have one (1) square foot of area for each four (4) linear feet of front lot distance, up to a maximum of seventy-five (75) square feet of sign area. The Site has a front lot distance of approximately three hundred and twenty-

nine feet (329'±) thus a sign maximum of ninety-five (95) square feet is permitted. The Applicant is proposing to install a fifty-four (54) square feet custom aluminum cabinet sign.

8. That ZBL Section 4.4.3.4.4.3 allows for a freestanding sign to not be more than ten (10) feet in height above the ground, excepting that they may increase in height by one (1) foot above the ten (10) feet for each two (2) feet they are set back from the front lot line. The Applicant is proposing the sign to be set twelve (12) feet from the front lot line which would allow for a sign sixteen (16) feet in height to be installed. The Applicant is only proposing a sign eleven (11) feet in height.
9. That ZBL Section 4.4.4 authorizes the Planning Board to issue a Special Permit granting relief from the ZBL Section 4.4 where extreme or unusual conditions exist or enforcement of the ZBL would involve practical difficulties or unnecessary hardship provided the relief does not substantially derogate from the intent and purpose of this ZBL. Finding #4 constitutes an unusual condition and warrants the issuance of a Special Permit, provided favorable findings under Sections 4.4.4 (a)-(i).
10. That with regard to Section 4.4.4.2(a), the sign will improve identification of the business and will not be a nuisance or a hazard to vehicles and pedestrians. The proposed sign will be in conformance with the requirements for freestanding signs within the non-residential zoning districts (Exhibit #6).
11. That with regard to Section 4.4.4.2(b), the nature of the establishment is such that the sign should be permitted in the public interest based on the Exhibits and Findings. The Town wide Rezoning of 1986 caused for a previously conforming use of an "Automobile and/or truck repair garage" to become a non-conforming use within the zoning district (Exhibit #6).
12. That with regard to Section 4.4.4.2(c), the proposed sign will not cause visual confusion, glare or offensive lighting in the neighborhood or surrounding properties. The proposed sign will clearly identify the current business and services offered, be internally lit and therefore not cause glare or offensive lighting in the neighborhood or surrounding properties (Exhibit #1). The Applicant stated that the proposed sign will be on a timer and shall be lit as allowed in ZBL Section 4.4.2.1.
13. That with regard to Section 4.4.4.2(d), the sign requested pursuant to the Special Permit Application is necessary due to the topography or site conditions unique to the proposed location of the sign. The proposed sign will be replacing a pre-existing, non-conforming sign for a pre-existing, non-conforming use that is located along a relatively flat section of Upton Road.
14. That with regard to Section 4.4.4.2(e), that the Site does contain a unique and particular type of use that requires additional signage in order to identify the premises adequately. The use is unique in that the use was established prior to the change in zoning to Agricultural and that at the time of the zoning change an expansion of the business was permitted by the Zoning Board of Appeals and Planning Board. The proposed sign will be replacing a pre-existing, non-conforming sign with a sign that is more in conformance with dimensional requirements of the bylaw, with the exception for area.

15. That with regard to Section 4.4.4.2(f), the sign in question is appropriately located and reasonably adapted to the proper use. The proposed sign will be in conformance with the requirements for freestanding signs within the non-residential zoning districts.
16. That with regard to Section 4.4.4.2(g), the sign will not significantly alter the character of the zoning district or be a detriment to the surrounding area. The nearby property uses range from single- and multi-family homes, a horse stable to the Grafton Flea Market.
17. That with regard to Section 4.4.4.2(h), the sign will not be detrimental to the public safety and welfare. That while the proposed sign is increasing the square footage of the existing, the sign will be setback further from the property line compared to the existing sign and will not impact vehicles exiting the site.
18. That with regard to Section 4.4.4.2(i), the granting of the Special Permit does not derogate substantially from, and would be in harmony with, the intent and purposes of the Bylaw. The new sign is in compliance with the requirement for freestanding signs within the non-residential zoning districts.
19. With regard to Section 1.5.5(a) of the ZBL that based upon the Findings stated within this Decision ingress and egress to the property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe, are adequate.
20. With regard to Section 1.5.5(b) of the ZBL, that based upon the Findings stated within this Decision, off-street parking and loading areas where required, and the economic, noise, glare, or odor effects of the Special Permit on adjoining properties and properties generally in the district are satisfactory. The Board finds that this requirement does not apply to this Application based on the nature of the proposal.
21. With regard to Section 1.5.5(c) of the ZBL, that based upon the Findings stated within this Decision, refuse collection or disposal and service areas do not change. The Board finds that this requirement does not apply to this Application based on the nature of the proposal.
22. With regard to Section 1.5.5(d) of the ZBL, that based upon the Findings stated within this Decision, screening and buffering with reference to type, dimensions and character are not applicable to this Application based on the nature of the proposal.
23. With regard to Section 1.5.5(e) of the ZBL, that based upon the Findings stated within this Decision, signs and exterior lighting with reference to glare, traffic safety, economic effect is compatible and in harmony with properties in the district. The proposed sign is internally lit and will not generate glare.
24. With regard to Section 1.5.5(f) of the ZBL that based upon the Findings stated within this Decision the required yards and other open space requirements do not change. The Board finds that this requirement does not apply to this Application based on the nature of the proposal.

25. With regard to Section 1.5.5(g) of the ZBL, that the proposed sign and its use (as presented in the Exhibits stated within this Decision and by the Applicant during the public hearing) is generally compatible with adjacent properties and properties in the district.
26. With regard to Section 1.5.5(h) of the ZBL, that upon satisfying and complying with all applicable Board of Health requirements, and based upon the Findings stated within this Decision, there will not be any significant adverse impact on any public or private water supply.
27. With regard to Section 1.5.5(i) of the ZBL, that upon satisfying and complying with all applicable Board of Health requirements, and based upon the Findings stated within this Decision, there will not be any significant or cumulative impact upon municipal water supplies.
28. With regard to Section 1.5.5(j) of the ZBL, that based upon the Findings stated within this Decision, protection of important historic, cultural and scenic landscapes with regard to the proposed development does not change. No resources of these kinds were identified during the course of the public hearing.

#### **IV. DECISION and CONDITIONS**

At their meeting of August 13, 2018, after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by Mr. Robbins, seconded by Mrs. Carroll-Tidman) voted 5-0 to **APPROVE** Special Permit 2018-11 with **CONDITIONS** as follows:

1. This Special Permit specifically authorizes the following:
  - Installation of a nine (9) feet tall by six (6) feet wide by one (1') foot deep, double sided, internally lit custom aluminum cabinet sign depicting the Site's business - "Johnny's Automotive Service – Car & Light Truck" – set twelve (12) feet from the front lot line and two (2) feet above grade to be a total of eleven (11) feet high.
2. Unless specifically modified by this Decision, the sign authorized by this Special Permit shall be installed in accordance with, and maintained to conform to, the Conditions stated within this Decision, all applicable requirements of the Grafton Zoning Bylaw, and all applicable Federal, State and Local regulations.
3. The use of the sign authorized by this Special Permit shall be solely for the purposes noted within Condition #1 of this Decision. Changes to the sign presented in this Application may be made only upon authorization from the Planning Board. Such authorization shall only be granted provided the Board finds that any change requested by the Applicant is not substantially different than the sign presented within the Exhibits of this Decision, and is consistent with the intent and purpose of such sign. Requests for such change(s) shall be submitted in writing to the Planning Board.
4. In accordance with ZBL Section 1.5.8, this Special Permit shall lapse within one (1) year from the date of the expiration of the appeal period if substantial use, or construction, has not been commenced except in accordance with the law. Any request for an extension of said period of

validity shall be considered a Modification of this Special Permit, and such request shall be filed and reviewed in accordance with the procedure specified in ZBL Section 1.5.

5. The Special Permit and construction of the sign shall not take effect until the Decision has been recorded at the Worcester District Registry of Deeds (WDRD) and a copy of the recording provided to the Planning Board and the Building Department to include the WDRD Book and Page Number and/or Instrument Number.
6. By recording this Special Permit Decision in the Worcester District Registry of Deeds, the Applicant agrees to and accepts the conditions set forth in this Special Permit Decision.
7. Any inability, failure or refusal by the Applicant to comply with the requirements of this Special Permit Approval, when notified of failure of compliance, shall be grounds for the immediate denial of building, construction or occupancy permits with respect to this project.

**V. RECORD OF VOTE**

Constituting a majority of the Planning Board, the following members voted to **APPROVE** the Applicant's Special Permit application (SP 2018-11) for sign relief as described in this Decision with Conditions at 277 Upton Street, Grafton, based on the information received at the public hearing, submittals, and the aforementioned Findings:

<u>Robert Hassinger, Chairman</u>	<u>AYE</u>	<u>David Robbins, Member</u>	<u>AYE</u>
<u>Linda Hassinger, Vice Chairman</u>	<u>AYE</u>	<u>Michael Scully, Member</u>	<u>AYE</u>
<u>Sharon Carroll-Tidman, Clerk</u>	<u>AYE</u>		

**DATE OF FILING OF DECISION:**

**BY ORDER OF THE BOARD**

  
\_\_\_\_\_  
Joseph Layden, Town Planner

  
\_\_\_\_\_  
Date

cc: Applicant/Owner  
Building Inspector

**To Whom It May Concern:** This is to certify and verify that twenty (20) days have elapsed since this decision was filed in the Town Clerk's office and that no appeals have been filed in reference to same, or that, if such appeal has been filed, it has been dismissed or denied.

\_\_\_\_\_  
Kandy Lavalley, Town Clerk

\_\_\_\_\_  
Date